

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

RECREATIONAL TRESPASS

PART 731

RECREATIONAL TRESPASS

324.73101 Definitions; F to P.

Sec. 73101. As used in this part:

(a) "Farm product" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(b) "Farm property" means land used in the production of a farm product and all lands contained within the farm.

(c) "Fish" means game fish or nongame fish as those terms are defined in section 48701.

(d) "Fur-bearing animal" means that term as defined in section 43503.

(e) "Game" means that term as defined in section 40103.

(f) "Hunting dog" means a dog allowed to range freely to engage in or aid in hunting on the day the dog enters the property of another person.

(g) "License" means a hunting, fishing, or fur harvester's license or, in the discretion of the court, any combination of such licenses. License does not mean a certificate, license, or permit under part 445 or 473.

(h) "Protected animal" means that term as defined in section 40103.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

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324.73102 Entering or remaining on property of another; consent; exceptions.

Sec. 73102. (1) Except as provided in subsection (4), a person shall not enter or remain upon the property of another person, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping on that property without the consent of the owner or his or her lessee or agent, if either of the following circumstances exists:

(a) The property is fenced or enclosed and is maintained in such a manner as to exclude intruders.

(b) The property is posted in a conspicuous manner against entry. The minimum letter height on the posting signs shall be 1 inch. Each posting sign shall be not less than 50 square inches, and the signs shall be spaced to enable a person to observe not less than 1 sign at any point of entry upon the property.

(2) Except as provided in subsection (4), a person shall not enter or remain upon farm property or a wooded area connected to farm property for any recreational activity or trapping without the consent of the owner or his or her lessee or agent, whether or not the farm property or wooded area connected to farm property is fenced, enclosed, or posted.

(3) On fenced or posted property or farm property, a fisherman wading or floating a navigable public stream may, without written or oral consent, enter upon property within the clearly defined banks of the stream or, without damaging farm products, walk a route as closely proximate to the clearly defined bank as possible when necessary to avoid a natural or artificial hazard or obstruction, including, but not limited to, a dam, deep hole, or a fence or other exercise of ownership by the riparian owner.

(4) A person other than a person possessing a firearm may, unless previously prohibited in writing or orally by the property owner or his or her lessee or agent, enter on foot upon the property of another person for the sole purpose of retrieving a hunting dog. The person shall not remain on the property beyond the reasonable time necessary to retrieve the dog. In an action under section 73109 or 73110, the burden of showing that the property owner or his or her lessee or agent previously prohibited entry under this subsection is on the plaintiff or prosecuting attorney, respectively.

(5) Consent to enter or remain upon the property of another person pursuant to this section may be given orally or in writing. The consent may establish conditions for entering or remaining upon that property. Unless prohibited in the written consent, a written consent may be amended or revoked orally. If the owner or his or her lessee or agent requires all persons entering or remaining upon the property to have written consent, the presence of the person on the property without written consent is prima facie evidence of unlawful entry.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

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324.73103 Discharging firearm within right-of-way of public highway abutting certain property; consent; "public highway" defined.

Sec. 73103. (1) A person shall not discharge a firearm within the right-of-way of a public highway adjoining or abutting any platted property, fenced, enclosed, or posted property, farm property, or a wooded area connected to farm property without the consent of the owner of the abutting property or his or her lessee or agent.

(2) As used in this section, "public highway" means a road or highway under the jurisdiction of the state transportation department, the road commission of a county, or of a local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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324.73104 Removing, defacing, or destroying sign or poster.

Sec. 73104. A person shall not remove, deface, or destroy a sign or poster that has been posted pursuant to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: Recreational Trespass Act

324.73105 Posting or enclosing property.

Sec. 73105. A person shall not post a sign on property owned by another person or enclose the property of another person to prohibit hunting, fishing, trapping, or other recreational activities on that property without the written permission of the owner of that property or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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324.73106 Prosecution generally; seizure and enforcement by peace officer.

Sec. 73106. (1) A prosecution under this part shall be in the name of the people of the state, shall be brought before a district court of competent jurisdiction in the county in which the offense was committed, and shall be brought within 1 year from the time the offense charged was committed.

(2) A peace officer may seize property and otherwise enforce this part upon complaint of the landowner or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73107 Action for injury to person on property of another; exception.

Sec. 73107. (1) Except as provided in subsection (2), a cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent but who has not paid the owner, tenant, or lessee of that property valuable consideration for the recreational or trapping use of the property, unless the injury was caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent and has paid the owner, tenant, or lessee valuable consideration for fishing, trapping, or hunting on that property, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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324.73108 Enforcement and prosecution.

Sec. 73108. The prosecuting attorney for a county shall enforce this part and prosecute all persons charged with violating this part in that county. The attorney representing a municipality may enforce this part in that municipality and prosecute all persons charged with violating this part in that municipality.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

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324.73109 Violation of part; cause of action by property owner.

Sec. 73109. The owner of property on which a violation of this part is committed, or his or her lessee, may bring a cause of action against an individual who violates this part for \$750.00 or actual property damages, whichever is greater, and actual and reasonable attorney fees.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999;—Am. 2013, Act 176, Eff. Feb. 25, 2014.

Popular name: Act 451

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324.73110 Violation as misdemeanor; penalties; restitution.

Sec. 73110. (1) Except as provided in subsection (2) or (3), an individual who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both.

(2) An individual who kills any protected animal, game, or fish while violating this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$750.00, or both.

(3) An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both. In addition, the court shall order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and shall order the individual not to seek or possess a license for the remainder of the calendar year in which the individual is convicted and during at least 1 succeeding calendar year. This subsection does not apply after September 30, 2001.

(4) This subsection applies beginning October 1, 2001. An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$500.00 or more than \$1,500.00, or both. In addition, the court may order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and may order the individual not to seek or possess a license for not more than 3 succeeding calendar years.

(5) The court may order an individual convicted of violating this part to pay the costs of prosecution.

(6) The following may be seized and forfeited in the same manner as provided in chapter 47 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709:

(a) A protected animal, a fur-bearing animal, game, or fish taken while committing any violation of this part.

(b) Property in the possession of the defendant while committing a second or subsequent violation of this part occurring within 3 years of a previous violation of this part. This subdivision does not apply to either of the following:

(i) Electronic hunting-dog-retrieval equipment.

(ii) A living or dead animal of any kind not described in subdivision (a).

(7) The court shall order an individual convicted of violating this part to make restitution for any damage arising out of the violation, including, but not limited to, reimbursing this state for the value of any protected animal, fur-bearing animal, game, or fish taken while violating this part as provided in section 40119. However, the value of fish shall be determined as provided in section 48740.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999;—Am. 2013, Act 176, Eff. Feb. 25, 2014.

Popular name: Act 451

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324.73111 Adoption of part as ordinance; effect of contradicting or conflicting ordinance, regulation, or resolution.

Sec. 73111. (1) A local unit of government may adopt this part as an ordinance, except that a penalty imposed for a violation of that ordinance shall not exceed the penalty authorized by law for the violation of an ordinance enacted by that local unit of government.

(2) A local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

PART 733

LIABILITY OF LANDOWNERS

324.73301 Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaned agricultural or farm products, fishing or hunting, or picking and purchasing agricultural or farm products at farm or "u-pick" operation; definition.

Sec. 73301. (1) Except as otherwise provided in this section, a cause of action does not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action does not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of entering or exiting from or using a Michigan trailway as designated under part 721 or other public trail, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. For purposes of this subsection, a Michigan trailway or public trail may be located on land of any size including, but not limited to, urban, suburban, subdivided, and rural land.

(3) A cause of action does not arise, for injuries to a person, against a person, other than a for-profit legal entity, with whom the owner, tenant, or lessee of land contracts to construct, maintain, or operate a trail or other land improvement used by the injured person as described in subsections (1) and (2), unless the injuries were caused by the gross negligence or willful and wanton misconduct of the person, other than a for-profit legal entity, with whom the owner, tenant, or lessee contracts.

(4) A cause of action does not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaned agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(5) A cause of action does not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(6) A cause of action does not arise against the owner, tenant, or lessee of land or premises for injuries to a

person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

- (a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.
- (b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.
- (c) The person injured did not know or did not have reason to know of the condition or risk.
- (7) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 174, Imd. Eff. Dec. 21, 2007;—Am. 2017, Act 39, Eff. Aug. 21, 2017.

Popular name: Act 451

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324.73302 Injuries to person on right-of-way; cause of action against railroad.

Sec. 73302. (1) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been dedicated for interim trail use and rail banking under 16 USC 1247(d) for injuries to a person who is on the right-of-way that occur after the Surface Transportation Board approves the dedication of the right-of-way under 16 USC 1247(d) and before the right-of-way is reactivated for return to rail service.

(2) A cause of action does not arise against a railroad that owns or formerly owned or operated a right-of-way of a rail line that has been set apart for interim trail use and rail banking under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, for injuries to a person who is on the right-of-way that occur after the dedication of the right-of-way under the state transportation preservation act of 1976, 1976 PA 295, MCL 474.51 to 474.70, and before the right-of-way is reactivated for return to rail service.

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